

ESTTA Tracking number: **ESTTA432851**

Filing date: **09/28/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	TSDC, LLC
Granted to Date of previous extension	09/28/2011
Address	P.O. BOX 45034 Cleveland, OH 44145 UNITED STATES

Correspondence information	TSDC, LLC P.O. BOX 45034 Cleveland, OH 44145 UNITED STATES docket@patentandtm.com
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Applicant Information

Application No	85975179	Publication date	05/31/2011
Opposition Filing Date	09/28/2011	Opposition Period Ends	09/28/2011
Applicant	Sigler Companies, Inc. 3100 S. Riverside Drive Ames, IA 50010 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Lip balm

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85022163	Application Date	04/23/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER		

Design Mark	FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER
Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2010/05/12 First Use In Commerce: 2010/05/12 Organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases

U.S. Application No.	85082681	Application Date	07/12/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FIGHT LIKE A GIRL CLUB		
Design Mark	FIGHT LIKE A GIRL CLUB		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2010/07/09 First Use In Commerce: 2010/07/09 Jewelry Class 025. First use: First Use: 2010/07/09 First Use In Commerce: 2010/07/09 Clothing, namely, t-shirts, sweatshirts, tank tops, golf shirts, pants, shorts, ties, sleepwear, hats, jackets Class 045. First use: First Use: 2010/05/12 First Use In Commerce: 2010/05/12 Organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FIGHT LIKE A GIRL		
Goods/Services	Wearing apparel, and other products and services.		

Related Proceedings	91/200,197
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Attachments	85022163#TMSN.jpeg (1 page)(bytes) 85082681#TMSN.jpeg (1 page)(bytes) FLGC3500NoticeOfOpposition.pdf (19 pages)(887265 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/D. Ari Sherwin/
Name	TSDC, LLC
Date	09/28/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85/975,179

Filed on December 3, 2010

For the mark FIGHT LIKE A GIRL

Published in the *Official Gazette* (Trademarks) on May 31, 2011

TSDC, LLC

Opposer,

V.

Sigler Companies, Inc.,

Applicant.

[illegible]

Opposition No.:_____

**UNITED STATES PATENT AND TRADEMARK OFFICE
ATTN: TRADEMARK TRIAL AND APPEAL BOARD
P.O. BOX 1451
ALEXANDRIA, VA. 22313-1451**

NOTICE OF OPPOSITION

TSDC, LLC (hereinafter referred to as "OPPOSER"), a limited liability company organized and existing under the laws of the State of Ohio, having a business address at P.O. Box 45034, Cleveland, Ohio 44145, believes that it will be damaged by the registration of FIGHT LIKE A GIRL shown in Trademark Application Serial No. 85/975,179 (hereinafter referred to as "APPLICATION") and hereby opposes the same.

The grounds for opposition are as follows:

1. TSDC, LLC was organized and is operated by Sandy Ellis, also known as Sandra Ellis, (hereinafter referred to as "ELLIS").

2. OPPOSER functions as the legal owner of certain intellectual property rights by virtue of assignment from ELLIS.

3. OPPOSER, through its predecessor-in-interest, first used the mark FIGHT LIKE A GIRL in connection with the marketing and sale of wearing apparel, and other products and services in commerce since at least as early as December of 2006.

4. OPPOSER first acquired common law trademark and service mark rights to the mark FIGHT LIKE A GIRL in connection with the marketing and sale of wearing apparel, and other products and services since at least as early as December of 2006.

5. The use of the mark FIGHT LIKE A GIRL in connection with the marketing and sale of wearing apparel, and other products and services in commerce by OPPOSER has been valid and continuous since at least as early as December of 2006 and has not been abandoned.

6. Upon information and belief, OPPOSER's first use in commerce of the mark "FIGHT LIKE A GIRL", to which it has acquired common law trademark and service mark rights, is prior to any use by APPLICANT in commerce and the filing date of the APPLICATION.

7. OPPOSER uses the FIGHT LIKE A GIRL, FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks in connection with the marketing and sale of wearing apparel and other products, and the marketing and provision of services for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases.

8. OPPOSER owns United States Trademark Serial No. 85/022,163 for the mark FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases in International Class 045.

9. An Amendment to Allege Use for United States Trademark Serial No. 85/022,163 for the mark FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER was filed on July 8, 2010.

10. United States Trademark Serial No. 85/022,163 for the mark FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER bears a date of first use in commerce of at least as early as May 12, 2010 for organizing and providing a forum for the interaction between those who suffer or are affected by ailments and life-threatening diseases.

11. OPPOSER also owns United States Trademark Serial No. 85/082,681 for the mark FIGHT LIKE A GIRL CLUB for jewelry in International Class 014, clothing in International Class 025, and organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases in International Class 045.

12. United States Trademark Serial No. 85/082,681 for the mark FIGHT LIKE A GIRL CLUB was filed on July 12, 2010 and bears a date of first use in commerce of at least as early as July 9, 2010 for jewelry and clothing, and at least as early as May 12, 2010 for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases.

13. A true copy of the USPTO TESS database records for United States Trademark Serial Nos. 85/022,163 and 85/082,681 are attached hereto as Exhibits 1 and 2, respectively.

14. OPPOSER uses the federally applied for FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER mark in connection with the marketing and provision of services for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases

15. OPPOSER also uses the federally applied for FIGHT LIKE A GIRL CLUB mark in connection with the marketing and sale of wearing apparel and other products, and the marketing and provision of services for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases.

16. The use of the federally applied for FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER mark on or in connection with the marketing and provision of services in commerce by OPPOSER has been valid and continuous since May 12, 2010 and has not been abandoned.

17. The use of the federally applied for FIGHT LIKE A GIRL CLUB mark on or in connection with the marketing and sale of goods in commerce by OPPOSER has been valid and continuous since July 9, 2010 and has not been abandoned.

18. The use of the federally applied for FIGHT LIKE A GIRL CLUB mark on or in connection with the marketing and provision of services in commerce by OPPOSER has been valid and continuous since May 12, 2010 and has not been abandoned.

19. Upon information and belief, Sigler Companies, Inc. (hereinafter referred to as “APPLICANT”), is a corporation duly organized and existing under the laws of the State of Iowa, having a mailing address of 3100 S. Riverside Drive, Ames, Iowa 50010.

20. APPLICANT has filed Trademark Application Serial No. 85/975,179 to register FIGHT LIKE A GIRL on the Principal Register of the United States Patent and Trademark Office for lip balm in International Class 003.

21. The APPLICATION was published for opposition in the *Official Gazette* (Trademarks) on May 31, 2011.

22. The APPLICATION was filed based on an intent to use on December 3, 2010 and no Allegation of Use has been filed to date.

23. OPPOSER’s FIGHT LIKE A GIRL mark, to which it has acquired common law trademark and service mark rights, is identical to APPLICANT’s federally applied for mark in appearance, spelling, sound and pronunciation.

24. APPLICANT’s federally applied for mark conveys a similar commercial impression and connotation as OPPOSER’s FIGHT LIKE A GIRL mark, to which it has acquired common law trademark and service mark rights.

25. Each of OPPOSER’s federally applied for marks begin with the four word string “FIGHT LIKE A GIRL”.

26. APPLICANT’s applied for mark FIGHT LIKE A GIRL is present in its entirety in each and every one of OPPOSER’s federally applied for marks.

27. Because APPLICANT's applied for mark FIGHT LIKE A GIRL is present in its entirety in each and every one of OPPOSER's federally applied for marks, OPPOSER's applied for marks and APPLICANT's applied for mark FIGHT LIKE A GIRL are substantially similar in appearance and spelling.

28. Because APPLICANT's applied for mark FIGHT LIKE A GIRL is present in its entirety in each and every one of OPPOSER's federally applied for marks, OPPOSER's applied for marks and APPLICANT's applied for mark FIGHT LIKE A GIRL are substantially similar in sound and pronunciation.

29. The terms FIGHT LIKE A GIRL conveys a similar commercial impression and connotation as OPPOSER's federally applied for marks.

30. The goods for which APPLICANT seeks to register the term FIGHT LIKE A GIRL are related to, substantially similar to, or of the same general nature as the goods and services marketed and sold under OPPOSER's FIGHT LIKE A GIRL mark, and the goods and services recited in OPPOSER's federal applications for the FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks.

31. OPPOSER has developed a substantial reputation through extensive sales and advertising of goods and services under its FIGHT LIKE A GIRL, FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks.

32. The notoriety of OPPOSER's FIGHT LIKE A GIRL, FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks extends well beyond the fields of jewelry, clothing, and organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases.

33. By extensively advertising, marketing and promoting goods and services under the FIGHT LIKE A GIRL mark, and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks, OPPOSER is reasonably assumed to naturally expand its product line to the same general nature as the goods recited in APPLICANT's federal application for the FIGHT LIKE A GIRL mark.

34. The goods and services of OPPOSER's are offered for sale and advertised at least through the internet.

35. Upon information and belief, APPLICANT's goods and services are intended to be offered for sale and advertised through the internet, and therefore constitute similar trade channels.

36. OPPOSER markets and sells wearing apparel and other products, and provides services for organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases.

37. OPPOSER markets and sells goods, and markets and provides services to people involved with martial arts, and people fighting cancer and who suffer or are affected by ailments and life-threatening diseases.

38. Upon information and belief, APPLICANT's goods are intended to be marketed and sold to consumers, including, but not limited to, those involved with martial arts, and people fighting cancer and who suffer or are affected by ailments and life-threatening diseases, and therefore are directed to the same general class of purchasers as OPPOSER's goods and services.

39. OPPOSER has spent significant time, effort, and money extensively advertising, marketing and otherwise promoting its FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks to the purchasing public in connection with the sale of goods and provision of services in interstate commerce throughout the United States.

40. By extensively advertising, marketing and promoting goods and services under the FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER and FIGHT LIKE A GIRL CLUB marks, the purchasing public has come to recognize OPPOSER's FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks as signifying OPPOSER as the source or origin of those goods and services.

41. By extensively advertising, marketing and promoting goods under the FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks, OPPOSER has developed exceedingly valuable goodwill and consumer recognition throughout the United States with respect to the trademarks and service marks.

42. Upon information and belief, APPLICANT's registration of the mark FIGHT LIKE A GIRL in connection with the goods recited in the APPLICATION is such that it will create or is likely to create confusion, deception, or mistake among purchasers as to the origin or source of APPLICANT's goods.

43. Upon information and belief, APPLICANT's registration of the mark FIGHT LIKE A GIRL is such that purchasers will be misled and deceived into mistakenly believing that APPLICANT's goods are approved or sponsored by OPPOSER, which they are not.

44. Upon information and belief, APPLICANT's registration of the mark FIGHT LIKE A GIRL is such that purchasers will be misled and deceived into mistakenly believing that APPLICANT or APPLICANT's products are in some way affiliated, connected to, or associated with OPPOSER, which they are not.

45. Upon information and belief, the registration of the mark FIGHT LIKE A GIRL works to OPPOSER's disadvantage in that the goodwill attached to OPPOSER's FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks will likely be extended to APPLICANT without OPPOSER's knowledge or consent, thereby benefiting APPLICANT rather than OPPOSER.

46. Upon information and belief, APPLICANT's registration of the mark FIGHT LIKE A GIRL will interfere with, or is likely to interfere with, or embarrass OPPOSER, in its business reputation and the reputation of the goods and services for which it uses the FIGHT LIKE A GIRL mark and federally applied for FIGHT LIKE A GIRL CLUB and FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER marks.

WHEREFORE, OPPOSER believes that registration of Trademark Application Serial No. 85/975,179 for the mark FIGHT LIKE A GIRL will damage OPPOSER, and prays that registration of Trademark Application Serial No. 85/975,179 in International Class 003 be refused.

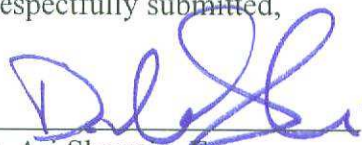
CORRESPONDENCE ADDRESS

Please direct all correspondence in connection with this Opposition to:

D. Ari Sherwin, Esq.
Curatolo Sidoti Co., LPA
24500 Center Ridge Road, Suite 280
Cleveland, Ohio 44145

Opposer has appointed Joseph G. Curatolo, Salvatore A. Sidoti, Peter R. Detorre, D. Ari Sherwin, Vincent A. Cortese, and Julie D. Hawk of Curatolo Sidoti Co., LPA, all members of the bar of the State of Ohio, to transact all business in the United States Patent & Trademark Office in connection with the present Opposition.

Respectfully submitted,



Date: September 28, 2011

D. Ari Sherwin, Esq.
Curatolo Sidoti Co., LPA
24500 Center Ridge Road, Suite 280
Cleveland, Ohio 44145
T: 440.808.0011
F: 440.808.0657
Attorney for Opposer

EXHIBIT 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-09-28 10:43:27 ET

Serial Number: 85022163 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

**FIGHT LIKE A GIRL CLUB
CLAIM YOUR POWER**

(words only): FIGHT LIKE A GIRL CLUB CLAIM YOUR POWER

Standard Character claim: Yes

Current Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Date of Status: 2011-06-10

Filing Date: 2010-04-23

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

Attorney Assigned:
POLZER NATALIE M

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-01-11

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TSDC, LLC

Address:
TSDC, LLC
P.O. Box 45034
Cleveland, OH 44145
United States

Legal Entity Type: Limited Liability Company

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=85022163>

9/28/2011

State or Country Where Organized: Ohio

GOODS AND/OR SERVICES

International Class: 045

Class Status: Active

Organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases

Basis: 1(a)

First Use Date: 2010-05-12

First Use in Commerce Date: 2010-05-12

ADDITIONAL INFORMATION

Disclaimer: "CLUB"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-06-10 - Opposition instituted for Proceeding

2011-03-09 - Extension Of Time To Oppose Received

2011-02-15 - Notice Of Publication E-Mailed

2011-02-15 - Published for opposition

2011-01-11 - Law Office Publication Review Completed

2011-01-11 - Notice Of Acceptance Of Amendment To Allege Use E-Mailed

2011-01-10 - Approved for Pub - Principal Register (Initial exam)

2011-01-10 - Amendment to Use approved

2011-01-06 - Teas/Email Correspondence Entered

2011-01-06 - Communication received from applicant

2011-01-01 - Assigned To LIE

2010-12-03 - TEAS Response to Office Action Received

2010-08-03 - Notification Of Non-Final Action E-Mailed

2010-08-03 - Non-final action e-mailed

2010-08-03 - Non-Final Action Written

2010-08-03 - Assigned To Examiner

2010-07-09 - Amendment To Use Processing Complete

2010-07-09 - Use Amendment Filed

2010-07-08 - TEAS Amendment of Use Received

2010-04-29 - New Application Office Supplied Data Entered In Tram

2010-04-27 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

D. Ari Sherwin

Correspondent

D. ARI SHERWIN

CURATOLO SIDOTI CO LPA

24500 CENTER RIDGE RD STE 280

CLEVELAND, OH 44145-5681

Phone Number: 440.808.0011

Fax Number: 440.808.0657

EXHIBIT 2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-09-28 10:43:45 ET

Serial Number: 85082681 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

FIGHT LIKE A GIRL CLUB

(words only): FIGHT LIKE A GIRL CLUB

Standard Character claim: Yes

Current Status: Suspension check completed. Application remains suspended.

Date of Status: 2011-07-12

Filing Date: 2010-07-12

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

Attorney Assigned:
POLZER NATALIE M

Current Location: L80 -TMEG Law Office 108

Date In Location: 2011-07-12

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TSDC, LLC

Address:
TSDC, LLC
P.O. Box 45034
Cleveland, OH 44145
United States

Legal Entity Type: Limited Liability Company
State or Country Where Organized: Ohio

GOODS AND/OR SERVICES

International Class: 014**Class Status:** Active

Jewelry

Basis: 1(a)**First Use Date:** 2010-07-09**First Use in Commerce Date:** 2010-07-09**International Class:** 025**Class Status:** Active

Clothing, namely, t-shirts, sweatshirts, tank tops, golf shirts, pants, shorts, ties, sleepwear, hats, jackets

Basis: 1(a)**First Use Date:** 2010-07-09**First Use in Commerce Date:** 2010-07-09**International Class:** 045**Class Status:** Active

Organizing and providing an on-line support group for those who suffer or are affected by ailments and life-threatening diseases

Basis: 1(a)**First Use Date:** 2010-05-12**First Use in Commerce Date:** 2010-05-12

ADDITIONAL INFORMATION

Disclaimer: "CLUB"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-07-12 - Report Completed Suspension Check Case Still Suspended

2011-01-10 - Notification Of Letter Of Suspension E-Mailed

2011-01-10 - LETTER OF SUSPENSION E-MAILED

2011-01-10 - Suspension Letter Written

2011-01-04 - Teas/Email Correspondence Entered

2011-01-04 - Communication received from applicant

2011-01-04 - Assigned To LIE

2010-12-03 - TEAS Response to Office Action Received

2010-08-03 - Notification Of Non-Final Action E-Mailed

2010-08-03 - Non-final action e-mailed

2010-08-03 - Non-Final Action Written

2010-08-03 - Assigned To Examiner

2010-07-15 - New Application Office Supplied Data Entered In Tram

2010-07-15 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

D. Ari Sherwin

Correspondent

D. ARI SHERWIN

CURATOLO SIDOTI CO. LPA

24500 CENTER RIDGE RD STE 280

CLEVELAND, OH 44145-5681

Phone Number: 440.808.0011

Fax Number: 440.808.0657

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **NOTICE OF OPPOSITION** has been served upon the Applicant on this 28th day of September, 2011 by depositing the same in the United States First Class Mail, postage pre-paid, in an envelope addressed as follows:

Robert W. Hoke, Esq.
Nyemaster Goode
One GreatAmerica Plaza
625 1st Street SE, Suite 400
Cedar Rapids, Iowa 52401-2030



D. Ari Sherwin